

PART ONE

# CONDUCTING SYSTEMATIC INQUIRIES

CHAPTER 1

## The Investigator's Purview

**Military law enforcement investigations are official inquiries into crimes involving the military community.** As a military investigator you will conduct systematic and impartial investigations to uncover the truth. You will seek to determine if a crime has been committed and to discover evidence of who has committed it. You will find, protect, collect, and preserve evidence discovered at the crime scene or elsewhere. You will document your findings and your actions with careful records. You will ensure evidence is accounted for by a complete chain of custody to allow it to be admissible in court. You will conduct interviews and interrogations in a manner that ensures depositions, statements, admissions, and confessions can be accepted in court. And as a professional fact-finder you will maintain unquestionable integrity in the course of undertaking your investigations. Your charter is to impartially find, examine, and make available evidence that will clear the innocent and allow prosecution of the guilty.

To successfully conduct your inquiries you must know the technical and legal requirements for a successful investigation. You must understand the general rules of

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evidence. You must know how to submit evidence for examination by laboratory specialists at a US Army criminal investigations laboratory (USACIL). You must understand the provisions and restrictions of the Manual for Courts-Martial, United States 1984 (Revised Edition) (MCM) and the Uniform Code of Military Justice (UCMJ). When there is any question of jurisdiction, authority, or legality of action or evidence, you must seek the counsel of the staff judge advocate (SJA). And you must be able to render constructive testimony in court.

## KNOWING LEGAL CONSIDERATIONS

All military personnel are subject to the provisions of the UCMJ. The UCMJ, as established by Congress, provides one basic code of military justice and law for all services. The code authorizes the President of the United States to set rules of evidence; pretrial, trial, and post-trial procedures; and maximum punishments for violations of the UCMJ. Under this authority, the President has issued the MCM.

### THE MANUAL FOR COURTS-MARTIAL

The MCM is a primary source document for matters relating to military justice. It is an Executive Order implementing the provisions of the UCMJ. It establishes the military law of evidence. The MCM is divided into four parts: a table of contents; the body, which is divided into points; the appendixes; and the index.

The body of the manual is divided into five parts. Part I, Preamble, is a brief discussion of military jurisdiction and the nature of military law. Part II, Rules for Courts-Martial, outlines the steps which must be taken to hold a proper military court-martial. It covers matters ranging from military jurisdiction to post-trial appeals. It discusses both the rights of the accused and the obligations of the government. Part III, Military Rules of Evidence, is mainly for the use of trial lawyers in the courtroom. But certain provisions of the rules impact heavily on your everyday activities as an investigator. In particular, Section III of Part III discusses the rules and related matters concerning self-incrimination, search and seizure, and eyewitness identification. Part IV, Punitive Articles, contains a thorough discussion of crimes punishable by the military. Each punitive article is discussed and illustrated separately. Part IV is particularly important to you, because it offers a guide for your investigation, showing what facts are important and need to be determined. The discussion gives the text of the article, lists the elements of the offense, explains the offense and gives examples, lists any lesser included offenses, tells the maximum punishment, and gives a sample specification. Part V, Nonjudicial Punishment, deals with the rules of nonjudicial punishment under Article 15, UCMJ.

The two most important appendixes in the MCM are Appendixes 1 and 2. Appendix 1 contains the Constitution of the United States, which sets the bounds within which the federal government must operate. Appendix 2 contains the UCMJ. Because the UCMJ creates the law, while the MCM implements and defines the law, if the MCM conflicts with the UCMJ, as interpreted by the Court of Military Appeals, the code must be followed. Federal rules of evidence, as developed in federal courts, are used to assist in the interpretation of the manual when military law is silent on the question.

## **PARTICIPANTS IN A CRIME**

The primary participants in a crime are the “principals.” The UCMJ discusses principals in detail. The person who directly commits an

offense is, obviously, a principal. So, too, is an aider and abettor of a crime.

The aider and abettor shares the criminal intent of the perpetrator. Being present at the scene of a crime or failing to prevent a crime does not make someone an aider and abettor. But someone who counsels, commands, induces, or procures another to commit a crime is an aider and abettor. An aider and abettor is a principal even if he is not present at the scene of the crime and even if the person he solicits to commit the crime does so by a means other than that which was planned.

An aider and abettor, if his intent or state of mind is more culpable than that of the perpetrator, may be guilty of an offense of greater seriousness than the perpetrator. And the reverse is true also. If, when a homicide is committed, the actual perpetrator acts in the heat of sudden passion caused by adequate provocation, he may be guilty of manslaughter. But the aider and abettor who hands a weapon to the perpetrator during this encounter with shouts of encouragement for him to kill the victim may be guilty of murder. On the other hand, two persons may agree to commit robbery by snatching purses in a particular place. If one acts as a lookout and the other, without knowledge of the lookout, seizes a victim and rapes her after taking her purse, the perpetrator will be guilty of rape and robbery, but the aider and abettor will be guilty only of the robbery.

An investigation of any given crime may also reveal the criminal liability of an accessory after the fact. A person who is an accessory after the fact is someone who, knowing that an offense under the UCMJ has been committed, receives, comforts, or assists the offender to prevent his apprehension, trial, or punishment. An accessory after the fact is also someone who, knowing that a crime has been committed, helps conceal the crime. But mere knowledge that a crime has been committed does not make someone an accessory after the fact. The person must have had a legal duty to report it. Or he or she must have committed some overt act designed to prevent the punishment of the criminal. Conviction of the perpetrator of the offense to which the accused is allegedly an accessory after the fact is not a prerequisite to the trial of the accessory.

## LEGAL PROTECTION OF JUVENILES

Most job contact with juveniles occurs when you investigate minor offenses like disturbing the peace. Sometimes contact is made when juveniles are seen committing acts that could be harmful to people or property. Usually, you stop the misconduct and, when needed, refer the incident to their parents. Your investigation into the causes of the misconduct and your collection of background data is limited to essential information. But you may extend your investigation to include the conduct of the child's military sponsors if that conduct is dangerous or harmful to the child.

Investigative steps for the gathering of evidence in juvenile offenses are the same as those used in cases involving adult suspects. But you must ensure that the juvenile is processed in accordance with Title 18, US Code, Chapters 401 and 403. And you must ensure the child is protected from unwarranted treatment.

If you must detain juveniles, remember that detaining juvenile suspects in confinement facilities, detention cells, or hospital prisoner wards is strictly forbidden. Juveniles may be temporarily detained in the offices of the post commander or provost marshal (PM), but check with SJA to ensure the proper conditions exist. Unless a juvenile is taken into custody for serious offenses, you may not take fingerprints or photographs of them without written consent of a judge. Contact SJA to ensure you have the proper judicial authority. You may not release names or pictures of juvenile offenders to the public.

All records of juvenile offenders must be secured and released only on a need-to-know basis. During juvenile proceedings, the data on the juvenile and the offense may only be given to the court, the juvenile's counsel, and others having a need to know. These others may be courts or agencies preparing presentence reports for other courts, or they may be police agencies requesting the information for an investigation of a crime. Records may also be released to a treatment facility to which a juvenile has been committed by the court if the director submits an inquiry in writing. And sometimes records may be released to an agency considering the subject for a position involving law

enforcement work or affecting national security.

Records should give detailed listings of regulations the juveniles have violated. And they should include the disposition made by civilian authorities. But permanent records of nonessential minor incidents or situations resolved in conference with parents or juvenile are not made. If a juvenile is found innocent, all records of the offense, including fingerprints, must be destroyed, sealed by the court, or disposed of in accordance with local directives.

## GENERAL RULES OF EVIDENCE

As a military law enforcement investigator you must develop skills and techniques to recognize, collect, evaluate, process, and preserve evidence. Evidence is the source from which a court-martial or jury must form its conclusions as to the guilt or innocence of an accused. Evidence is the means by which any alleged matter of fact is proved or disproved. It includes all matters, except comment or argument, legally submitted to a court to enable it to decide a question before it.

As a military investigator you conduct your inquiries to find evidence and make it available for presentation in court. But something more than a mere collection of evidence is required of a successful investigation. The evidence you obtain must be admissible in court.

Thus a basic knowledge of the rules governing admission and rejection of evidence is fundamental to your investigation. It is needed to conduct inquiries and to prepare cases that will present to the court enough admissible and reliable information upon which to base a proper decision. Only evidence that satisfies the rules of admissibility is admitted. Evidence from a search or a seizure is not admissible in a court-martial or in a federal judicial proceeding if it was obtained as a result of an unlawful search of the accused's property. This is called the Exclusionary Rule. Furthermore, evidence that is derived from an exploitation of an illegal act also may be inadmissible under what is known as the Fruit of the Poisoned Tree doctrine.

To be admissible, evidence must be relevant. Relevancy requires that the particular item of evidence have some tendency to prove or disprove a fact to be decided at the trial. All relevant evidence is admissible at trial unless some rule of law forbids its consideration by the court.

Rules of evidence are concerned with the admission of facts and pertinent materials and not with their “weight.” The weight accorded a particular item of evidence is a question for the court-martial or jury to

determine. The weight of evidence is its relative importance among differing items of evidence in a case. For example, an alibi being established by a defendant accused of murder would have more weight as evidence if a physician testifies he was attending the defendant in his home at the time of the alleged offense than if the defendant’s mother testifies he was at home in bed at that time. The testimony of both is admissible, but it is apparent that greater weight would be given to that of an impartial witness than to testimony from a mother favoring her son.

## PARTICIPATING IN THE CRIMINAL INFORMATION PROCESS

The success of your investigation can depend on your local application of information that investigators, world-wide, gather and process about crimes committed by individuals or organized crime groups. This criminal information helps you identify criminals and be aware of criminal activity and violations of criminal law. It also helps you prevent crime by allowing you to assess crime problems and trends.

The US Army uses criminal information to reveal criminal activities affecting the US Army. Only data which is needed is collected. Data solely about political activities is not collected. DA policy, stated in AR 380-13, forbids collection and retention of data on non-DOD personnel except for data about crimes that DOD has responsibility to investigate or prosecute.

Criminal information is more than just data documented in ongoing investigations. It is any information observed or obtained by investigators which may be of value to you when added to the information you possess. The process by which you and other investigators change the raw data from untried, undeveloped information into a useful form for investigative needs is called the criminal information process. It is an ongoing cycle of planning, collecting, evaluating, collating, analyzing, reporting, disseminating, and reevaluating. The process, undertaken continuously both at local levels and at higher HQ, ensures that a broad spectrum of information is available to aid you. The information that is gathered is processed and disseminated to all levels.

### GATHERING INFORMATION

At command level, the Operations Directorate, USACIDC, supervises the US Army’s criminal information effort. It sets information priorities for world-wide collection. And it disseminates processed criminal information to the local levels. USACIDC sets guides for two types of information: essential elements of criminal information (EECIs) and other criminal information requirements (OCIRs). OCIRs are data that may be useful to you, but you often do not need right away. EECIs, on the other hand, are critical items of data on criminal activities and crime areas to be collected at all levels. When EECI data are correlated and disseminated to local units, you can use that information to reach conclusions and make decisions.

At unit level, USACIDC offices and certain Military Police (MP) elements supervise the planning and collection of criminal information. The criminal information coordinators in local units plan and collect information on criminal functions within command boundaries and forward it on request or on their own initiative. They also set local priorities within the overall program. They keep in touch with information and law enforcement agencies.

At investigator level, you plan and collect data for input to the criminal information system. Collecting information is a continual duty of *all* investigators, not just those assigned directly to a criminal information section. You, the individual investigator, are

the key to a successful collection effort. You are usually the person in direct contact with local human sources of information. During your daily activities you look for EECIs and OCIRs. You do this continuously and aggressively. Although priority is placed on EECI needs, you must not overlook other useful criminal information.

You sift, sort, review, and analyze data with the help of the local criminal information coordinator. You develop sources of information. You gather information from both overt and covert sources. Your overt sources may be citizens, workers in private and government agencies, members of police agencies, and unit commanders. Postal workers, news media, phone books, and public records are good overt sources of information, too. Your covert sources include criminal elements willing to be sources and surveillant and undercover investigators. Your development of sources of information is limited only by your imagination.

Criminal information must be accurate and relevant. Usually the investigator who collects the details is most able to assess the reliability of his or her source. That investigator can determine reliability by recalling past experience with that source, as well as comparing the data with that gathered from other overt or covert sources. But even when you question the reliability of a source or accuracy of the information you collect, do not, disregard it as useless. Report it. You may not see the immediate need for an item of information. But this does not mean that item is not of value.

Higher USACIDC levels, having wider sources of criminal information than lower levels, may assess the accuracy and usefulness of an item of data by comparing it with a variety of other known data and circumstances. When seemingly useless bits of information are fitted together, the many separate bits may, like jigsaw puzzle pieces, form a recognizable picture. Thus, you should coordinate the information you collect on every new case with the criminal information center.

To bring together collected data to decide its importance and relation to other

information, your data must be collated and analyzed. It must be combined with other related data and then analyzed to allow sound theories and judgments to be derived. The analysis of the criminal information can be done at the same time as collation. The same data may be analyzed many times and by a variety of methods. The methods of statistical, systems, computer, or operational research analysis may be used. However an analysis is done at any level of command, it is done to see if a pattern can be shown and to see if more data is needed. An analysis also serves as a tool to reevaluate collection plans.

After data has been collected, collated, and analyzed, it must be reported. Because of the sensitive nature of some of the data being reported, the information is usually reported on CID Form 97 (Criminal Information Report). Tailor your reports to the needs of the main user. Give positive information. Prepare them objectively. But be sure to tell what conclusions you have drawn from the data. After the reported information is further analyzed at higher levels, criminal information is disseminated back to local levels. The information is disseminated to reach the principal user—the local investigator—you.

Reevaluation is the final stage of the criminal information process. It is a review at all levels of the potential use and benefit of the collected information. Reevaluation serves to show where changes need to be made. It ensures that the information to be gathered reflects the needs and goals of local investigative units and of such units in general. It ensures the information reflects current targets of interest, as areas of concern vary over time. And it ensures the information is obtainable from contacts and sources of information that are available.

### USING AND PROVIDING INFORMATION

To be useful, information must be available and easily retrievable. Only if you can get to the information can you see if any exists that will aid you in an ongoing investigation.

Three files are required by regulation to be maintained at each local USACIDC office.

These are the name index card file, the *modus operandi* (MO) file, and the offense file. The name index card file contains information cross-indexed by subjects, victims, witnesses and organizations. The *modus operandi* file contains information on distinct manners of operation cross-indexed by subjects and cases. And the offense file contains information indexed by the type of crime committed.

But a unit's investigative file system is not limited to these. Other useful files may include information indexed by unit, location, nicknames, stolen property, or type of vehicles. Criminal information may be indexed by any topic that will meet the investigative needs of a given office.

When an investigation is initiated, you should check the criminal information files for information regarding offenders, victims, witnesses, *modus operandi*, similar offenses, and perhaps even locale. And while working on the case, you must remain aware of the value of continuing to cross-check leads or other aspects of the case against the available criminal information. When an investigation is complete and you draft your report of investigation, make a last review

of criminal information. This action will ensure the thoroughness of your report. And it will allow information gained in your investigation to be checked against any unsolved cases and, perhaps, aid in solving them.

When acting on a request for information you must coordinate with your local Freedom of Information Act officer. The right to obtain information and the right to refuse to release information are limited by regulation and by the Privacy Act and the Freedom of Information Act. AR 340-17 requires that a DA Form 4410-R (Disclosure Accounting Record) be prepared and kept for release of personal data outside DOD. AR 340-17 gives guidance on USACIDC and MP law enforcement information systems. It exempts some law enforcement investigative files from the need to be disclosed. These files include source files and investigative working files.

As a participant in the criminal information process you must understand and comply with legal and regulatory restrictions on collecting, maintaining, and releasing information.

## CONDUCTING AN INVESTIGATION

Conducting a successful investigation, like being successful in any endeavor, is often the result of having a wide range of knowledge and using common sense in its application. There are certain actions that apply to all investigations. You follow these intelligent and logical steps to ensure your investigation is conducted systematically and impartially. And there are certain actions that, over time, have proven useful for specific investigations. It is a wise investigator who understands and applies the knowledge, skills, and techniques learned for a particular investigation wherever they are most useful in any investigation. This means that to conduct a successful larceny investigation you do more than just follow the investigative process and the guidelines for investigating larcenies. Knowing and using a technique usually used for investigating a robbery may be just what is needed to help solve your larceny case.

Your success on any case is always a function of your intellect and experience. You must develop a hypothesis that serves as the framework for the case. Your hypothesis is based on your survey of the crime scene. It is simply a set of reasoned assumptions of how the crime was committed and the general sequence of acts that were involved.

You reassess your hypothesis as new facts and leads are uncovered. You must overcome a natural tendency to make contradicting information fit your set of existing assumptions. For example, if there is substantial evidence that a murder was committed at the place where the body was found, it is tempting to ignore a fact or a lead that does not fit that assumption. And often the lack of some item or event is just as important as its presence. As you obtain new information, you must be willing to modify or change altogether your initial ideas about

how a crime was committed. Only through constant reassessment can the full value of your experience be realized.

### **GATHERING EVIDENCE**

Generally, the art of an investigation lies in gathering and evaluating information and evidence, both testimonial and physical. Testimonial evidence like sworn statements of eyewitness accounts and admissions of guilt is obtained through communication with people. Physical evidence like identified weapons and fingerprints is obtained by searching crime scenes, tracing leads, and developing technical data.

*You must always be evidence conscious.* The scene of any crime is itself evidence. And so is the testimony of trained investigators about observations and findings at a crime scene. Both physical and testimonial evidence are vital to the successful prosecution of a case.

#### **Testimonial Evidence**

Obtaining testimonial evidence requires skillful interpersonal communication with human sources of information, particularly with the persons directly involved in a case. Questioning victims, witnesses, complainants, suspects, and sources is the investigative method most often used to obtain testimonial evidence. It is also the method used to obtain background information that will give meaning to the physical evidence you collect. The solution to many crimes has been the direct result of leads and testimonial evidence developed through interviews and interrogations.

You must become skilled in interpersonal communications to elicit useful information. You must know how and when to ask the “right” questions. Your attitude and method of questioning, as much as the questions you ask, can elicit the leading information and testimonial evidence you seek.

You will question victims and witnesses to gain information that will help to show the facts of the crime. You will question them to gather information on what they saw, or know, or did in regard to an offense. You will check information you have received from one person against information you receive

from another. You will question your sources for information material to the case in hand. By your questions you will try to obtain observations and develop descriptions which will identify suspects. And you will question suspects to remove suspicion from the innocent and to give the guilty an opportunity to confess.

You will record the information you obtain from interviews and interrogations. From this information you will develop statements that, when sworn to under oath and signed by the swearer, may become documents admissible in court as evidence.

#### **Physical Evidence**

Collecting and evaluating physical evidence is an important technical part of your investigation. Physical evidence is one of your most valuable investigative assets. It produces leads for you to pursue to help bring the investigation to a conclusion. And physical evidence can help establish the guilt or innocence of an accused person in a court of law. For example, as a general rule, a person cannot be convicted on the basis of an uncorroborated confession. There must be independent evidence, either direct or circumstantial, that raises an inference of the truth of the essential facts admitted in the accused’s statements. Physical evidence can be that necessary independent evidence. And, while the rule requiring independent corroborating evidence does not apply to a confession made by an accused to the court during his trial, nor to statements made before or at the time the act was being committed, having physical evidence to substantiate such a confession or admission of guilt would certainly be desirable.

You must be aware of all manner of physical evidence, be it visible evidence or trace evidence. And you must be aware of how evidence can be useful to you.

Tool mark evidence may link a person who uses a given tool with the crime scene. It may show if a tool or weapon found at a crime scene made a mark that pertains to the crime. This knowledge is of value to you, whether or not the owner or possessor of the tool is known. It may eliminate the need of tracing a tool which has no connection with the crime.

It may help show if a door or window was forced open from the inside or the outside. It allows comparison of a tool mark from a crime scene with a tool mark found on the property of a suspect. It may also help narrow the search for a given tool or weapon.

Suspects sometimes can be identified through a trace of laundry marks. During crimes of violence parts of clothing with laundry marks may be torn from the suspect. Disguises like uniforms, overalls, or coveralls may be worn during holdups and thrown away after the crime. Fugitives, in their haste to depart, may leave behind old clothing. And sometimes unknown victims are identified by laundry marks.

Soils, rocks, and minerals may yield valuable circumstantial evidence. One of the main uses of soils and rocks as evidence is for sample comparisons. Samples from a crime scene can be compared with samples from a suspect's clothing or other possessions to see if the suspect could have been at the crime scene.

To achieve the maximum benefit from physical evidence, you must be not only skilled in its collection, but careful in your handling of it to preserve it for laboratory examination and/or for presentation in court. You must retain the item's evidential integrity by *keeping the item as nearly as possible in its original condition*. You must help maintain a chain of custody—a chronological, written record of who has had control of the item from the time it is acquired as evidence until it ceases to have value as evidence and is released or destroyed—to assure accountability. And you must ensure any item sent to a US Army criminal investigation laboratory for analysis is transmitted in a manner maintaining its value as evidence. *Your responsibility for items of evidence under your control ends only with the final disposition of the item.*

The investigator who first receives, recovers, or discovers physical evidence must be able to identify such evidence positively at a later date as being the specific article or item obtained in connection with a specific investigation. To be able to do this, you must mark and tag evidence promptly at the time you obtain it.

If you can, place your initials directly on the evidence. See Part Three of text. If the evidence cannot be marked, all identifying data should be noted on the container in which the evidence is placed. Record all details of the marking of evidence in your notes. Your photographs, sketches, and notes of the crime scene must show the exact places from which evidence was removed. This care is imperative to ensure the chain of custody of evidence is kept unbroken.

Remember, one of your main purposes as an investigator is to ensure that the evidence you obtain is admissible in court. Thus, you must ensure that you seize, collect, and accept receipt of evidence in a legal manner. You must be able to identify each piece of evidence weeks, months, or even years after it was collected. You must be able to describe the crime scene and where each piece of evidence was located at the scene. You must be able to explain any change in the evidence that has occurred since it was collected. And you must be able to prove that the evidence remained in proper custody from the time it was collected until it is presented in court.

### EVALUATING EVIDENCE

Frequently, the successful outcome of a case depends on your accurate evaluation of the evidence. Your evaluation of evidence begins with the first information you receive about the occurrence of a crime. You evaluate evidence in light of the circumstances and conditions you find at the crime scene and the information you obtain by questioning persons connected with the event. You evaluate each piece of evidence, individually and collectively, in relation to all other evidence. If doubt exists about the evidence value of an item, then it is secured and processed as evidence. Later evaluation can determine the worth of such evidence to the investigation.

After evaluating evidence and statements of expected testimony gathered during your preliminary investigation, decide what facts are still required to establish the elements of proof of the offense being investigated. Coordinate with other agencies and commands to gain the information or documents you need to support the investigation. Make sure administrative



action is started early to secure help from, and refer undeveloped leads to, others. Take early action to give them time to comply with your requests.

While awaiting replies or action, exploit every available local source of information. Make careful use of selected sources and seek out reliable persons who possess information material to the case. Check with the criminal information office or the joint police information team. Often the information you need can be obtained from a central location. Also contact the US Army Crime Records Center (USACRC) to see if suspects have a past record or if victims have ever been victims of another crime. If new information is found, make sure it is widely disseminated.

Evaluate your evidence, again, in light of all the information you now have. Support your evaluation with common sense and sound judgment enhanced by your past experience. You may want to discuss your evaluation of the evidence with supervisors, other investigators, technicians, the SJA, or other experts in a given field.

Continue this evaluation process until the investigation is concluded. When an investigation is complete, you must prepare a final report to document your findings. Your report must reflect the who, what, where, when, why, and how of the offense. Your final report must be a thorough, timely, and *objective* evaluation of your findings.

### RENDERING COURTROOM TESTIMONY

The final result in bringing a successful investigation to a close is often your testimony in the courtroom. Prepare yourself for this event with great care. Be sure you have your facts in order.

When preparing for trial, you should coordinate with the trial counsel so there are no surprises in court. You should develop a close working liaison with the trial counsel. Spend enough time with the trial counsel so that you are aware of what questions you will be asked. It is also important for the prosecutor to know what responses can be expected from you. Be professional in every way. Do not conceal information from the

court. The accused has the right to a fair trial regardless of your opinion.

#### ACTIONS TO TAKE BEFORE TESTIFYING

- Review your investigative actions and coordinate with the prosecutor before attending the hearing, board, or court of law.
- Review all statements for clarity.
- Review all waivers, affidavits, and search warrants for investigative and legal sufficiency.
- Review times, dates, and places of primary importance to the investigation.
- Review your investigative notes on the case; prepare miscellaneous notes for use as quick reference material. But never try to memorize your notes.
- Coordinate with the evidence custodian; physically review all evidence acquired in the investigation.
- Verify that the evidence is properly marked for identification.
- Review the chain of custody.
- Coordinate with the prosecutor on specific items of evidence required for the court, board, or hearing.
- Refresh your memory by visiting the scene of the crime.

Since senior officers and non-commissioned officers serve as court members, good personal appearance goes far in establishing the effectiveness of a witness. On the witness stand you should present an appearance marked by cleanliness, neatness, and concern for the details of appearance. You should refrain from distracting mannerisms or actions. They detract from your testimony. Avoid the use of police jargon or technical language so the judge or court members are not confused.

If an objection is raised by an opposing counsel, stop your testimony until the court rules on the objection. Never blurt out answers to a question objected to by counsel.

When answering questions, do so in a polite, courteous manner. When a question is not understood, ask that it be repeated. If you do not know the answer to a question, respond with, “I do not know.” *Never volunteer any information while testifying that was not called for in the question.*

You should be aware that during the often rigorous cross-examination process the defense counsel will use a variety of

questioning techniques to establish possible inconsistencies or prejudice. Remain calm during cross-examination and avoid arguing with opposing counsel.

After testifying, *do not discuss your testimony with anyone.* Until you are permanently excused by a military judge or person of the court, you should remain in the courthouse area.

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